

HOUSE BILL NO. 1320

Introduced by

Representatives Klemin, Kerzman

Senator Fiebiger

1 A BILL for an Act to amend and reenact sections 53-08-01 and 53-08-05 of the North Dakota
2 Century Code, relating to liability of owners of recreation lands.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 53-08-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **53-08-01. Definitions.** In this chapter, unless the context or subject matter otherwise
7 requires:

8 1. "Business purpose" includes any purpose that is related to a business in which the
9 landowner is engaged, whether for profit or otherwise, but excludes passive
10 advertising for the landowner's business and nonbinding requests that the
11 recreational user report to the landowner regarding activities upon the land or
12 conditions observed while engaged in recreational purposes upon the land.

13 2. "Charge" means the amount of money asked in return for an invitation to enter or
14 go upon the land.

15 ~~2.~~ 3. "Land" includes all public and private land, roads, water, watercourses, and ways
16 and buildings, structures, and machinery or equipment thereon.

17 ~~3.~~ 4. "Owner" includes tenant, lessee, occupant, or person in control of the premises.

18 ~~4.~~ 5. "Recreational purposes" includes any activity engaged in for the purpose of
19 exercise, relaxation, pleasure, or education, but does not include any activity that,
20 alone or in the aggregate with similar activities, furthers a business purpose of the
21 owner of the land on which the activity takes place, without regard to whether the
22 landowner actually obtains a financial or other benefit as a result of the activity.

23 **SECTION 2. AMENDMENT.** Section 53-08-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

- 1 **53-08-05. Failure to warn against dangerous conditions - Charge to enter.** This
2 chapter does not limit in any way any liability that otherwise exists for:
- 3 1. Willful ~~and~~ or malicious failure to guard or warn against a dangerous condition,
4 use, structure, or activity; or
- 5 2. Injury suffered in any case in which the owner of land:
- 6 a. ~~Charges~~ Accepts a charge from any person in exchange for permitting the
7 person ~~for entry~~ to enter onto the land other than the amount, if any, paid to
8 the owner of the land by the state; and
- 9 b. ~~The total charges collected by the owner in the previous calendar year for all~~
10 ~~recreational use of land under the control of the owner are more~~ Collects
11 charges in the previous calendar year for all recreational use of land under the
12 control of the owner in an amount greater than:
- 13 (1) Twice the total amount of property taxes imposed on the land for the
14 previous calendar year; or
- 15 (2) In the case of agricultural land, four times the total amount of property
16 taxes imposed on the land for the previous calendar year.
- 17 3. Injury caused by a defect in land which did not naturally occur thereon and of which
18 the owner of land had actual or constructive knowledge.